

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON RULES

Call to Order: By **CHAIRMAN FRED THOMAS**, on December 8, 2000 at 11:15 A.M., In Room 317A Capitol.

ROLL CALL

Members Present:

Sen. Fred Thomas, Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Lorentz Grosfield (R)
Sen. Mike Halligan (D)
Sen. Don Hargrove (R)
Sen. Bob Keenan (R)
Sen. Walter McNutt (R)

Members Excused: Sen. Tom Beck (R)
Sen. Steve Doherty (D)
Sen. Linda Nelson (D)
Sen. Mike Taylor (R)
Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Fredella D. Haab, Committee Secretary
Greg Petesch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:

CHAIRMAN FRED THOMAS stated he had the first rule update on 30-20. He asked for a motion on 30-20.

Motion: **SEN. MIKE HALLIGAN** moved the **NAMES OF STANDING COMMITTEE** 30-20.

SEN. LORENTS GROSFIELD stated that back in the days when you did things by hand and by typewriters the Bills & Journal Committee had a significant function because the Committee actually did approve the Journal. Now the way that Committee function was every day the chairman gets up and makes a motion to approve yesterday's journal. Yesterday's journal hadn't been written yet. That Committee had six, seven or five or whatever it was. You know you're referring people to a Committee that doesn't do anything. He just raised this as a question. Maybe that was something that we ought to look at. My understanding was that there will probably be a bill, maybe from that Committee, suggesting that the Committee ought to be dealt with. He had a question if this was something that we wanted to think about or not. The Journal does need to be verified in some fashion. He thought the way that it worked was **Rosana Skelton, Secretary of the Senate**, read it across the rostrum.

Secretary Skelton said they don't purport that it was approved for yesterday if yesterday's wasn't written yet. When it comes across the roster that one was out in print now. It had been verified at least by her. That was the motion that was made. Some days it was a three-day-old Journal. It doesn't come out for approval until it has been verified by her. So it was kind of like approving the minutes after they are written and they have been verified at least by us. **SEN. KEN MILLER** always had that copy if he wanted it. It truly was making a motion for something that was written. If it was not written yet we don't put that in the report. But you are right. They don't need a committee to do that.

SEN. HALLIGAN said the bill was actually drafted to ended December 31, 2003 or something like that. Those that are on the Committee now at least could work through it and pass the bill this session to make the effective date later unless you wanted to change it sooner or something.

Mr. Greg Petesch, Legislative Branch, said it would have to be a Senate Resolution.

CHAIRMAN THOMAS asked **Secretary Skelton** if the aspect of what we are doing with that motion of the Committee chair what would we do in lieu of that if we eliminated that committee?

Secretary Skelton said she didn't think the House approved the Journal.

Mr. Petesch, thought the Speaker signed the Journal and that authenticated it as a House practice.

Secretary Skelton said the House doesn't actually formally adopt the Committee. That was a question for the Senate to decide if they wanted to approve this.

CHAIRMAN THOMAS asked if they have to have a Journal?

Mr. Petesch said they were required by the constitution to keep a Journal.

CHAIRMAN THOMAS stated they were approving that every day. So we could do that with some other mechanism. Do you want to sort it out now?

SEN. GROSFIELD said he didn't care as it was no big deal. It was important that the function continues. It was true that the House doesn't have the Committee Chairman stand up and say he moved they adopt a Committee report. In the Senate each Chairman stands up and he thought there was some tradition there. He just wanted to bring it to the Committee's attention.

CHAIRMAN THOMAS said we do have a Committee and we don't want the potential of eliminating a Committee right now.

SEN. BOB KEENAN said he was told they were going to have a Committee meeting and introduce the Committee bill to eliminate themselves.

CHAIRMAN THOMAS said they can also deal with that issue if they want to make recommendation on how to deal with that aspect.

Secretary Skelton said they would decide whether or not they wanted to designate a senator who would look at the Journal and give its approval or do you want to just delegate that to the staff function.

SEN. HALLIGAN stated it would be the Senate Resolution that would come to the Rules Committee. We would hear it.

CHAIRMAN THOMAS said they could come to the Rules Committee with the Resolution. was there any discussion on this one specific motion on Senate 30-20 on Standing Committee names? Seeing no discussion all in favor say aye, opposed no, motion carried.

Vote: Motion **carried unanimously.**

SEN. BOB KEENAN wanted to clarify number three. Was it Business and Industry and Labor?

Mr. Petesch said it was Business and Labor with Industry being struck.

Motion: SEN. KEENAN moved **TO UPDATE Mason's.**

CHAIRMAN THOMAS stated he had a motion on 60-20 to update the Mason's. was there any discussion on the motion?

Vote: Motion **carried unanimously.**

CHAIRMAN THOMAS asked **SEN. VICKI COCCHIARELLA** if she had recommended a change in 58-190 on fairness to absentee voting?

SEN. COCCHIARELLA stated she had served in the House and had an unfortunate experience of her father-in-law dying during one session. She was treated very well by the House on the absentee voting process. She was able to telephone in every day and found out the things that were important to her on the agenda. She got to decide and she left her vote in absentee and told her Whip what she wanted to do. In the Senate she saw that the process of pairing caused them to have a delay in the schedule last time. We had a Resolution on honoring **Mike Mansfield** and we had it on the board. We postponed it because someone was absent and there was no opposite pair so we moved it to the next day's board. She just thought this absentee voting procedure that the House used was better for people and probably easier to administer. She thought that legislators had accountability for the absentee votes and she didn't really get why pairing needed to go on. Given the fact that someone did not vote on something that was important to them and the district constituents under the current practice.

SEN. GROSFIELD said her amendment really had two changes. One of them was to go from pairing to absentee. The other one was to allow absentee voting on second reading. He wondered if they could discuss that a little bit.

SEN. COCCHIARELLA said she asked **Mr. Petesch** to draft this for her and she never thought about that. She was saying that we could fix this so that it was on recorded votes with the Senate. The House does record second reading votes. She simply needed to make sure that this was for all recorded votes.

SEN. GROSFIELD commented sometimes times we record the second reading,

SEN. COCCHIARELLA said on recorded the votes if there was a second reading on an issue that we didn't do by voice but we have a recorded vote on that we should have an absentee vote.

CHAIRMAN THOMAS said currently the way the pairing was you can't do it on second reading, but you can on motions before but not on second reading.

SEN. COCCHIARELLA said she guessed that was not a big deal here. It was just being able to have a third reading vote and a motion to vote absentee vote that doesn't have to be paired.

SEN. HALLIGAN said originally he didn't like this and thought if they had controversial issues and there was a close vote and somebody wasn't there and you can't pair on second reading, you know and boom they come back the next day. Maybe a vote was held up because we want to wait for the key votes to come back. It might be reasonable as long as we do have something where a person can call in. Was that what was contemplated here? You call in and say okay here's the agenda for today. He signed something and here was where he'd like to vote. He guessed that he didn't want to be able to make up those votes which we did in the past. What was contemplated? Do we have to sign an absentee authorization?

Mr. Petesch stated it would have to specify the motion and the vote.

SEN. DON HARGROVE said it does seem reasonable that we have absentee voting or not have absentee voting, if you were actually tied to it. Just an observation that perhaps another effect term limits was the migration from the House to the Senate was that we are losing traditions between the two and maybe that's good. We get the best of each one. He had a question in addition to the comment for **Mr. Petesch** and asked if there was a history to pairing that had some validity to it?

Mr. Petesch stated pairing was a methodology that allowed absent people to get a recorded vote. **Sen. Gage** for his last two sessions made proposals to eliminate pairing. His concern was that the constitution refers to legislation passed by members present and voting. His concern was that if someone wanted to challenge a question decided by one vote on which pairs were recorded that there would be a basis for it. He was not aware of that challenge ever having been raised but he thought it was a potential possibility. That would not be cured by the absentee vote. His understanding was that pairing was adopted historically to allow an absent member to get a recorded vote.

Secretary Skelton asked if we don't allow them the second reading, normally we don't record second reading votes unless they're very close. That was the one that was going to be a problem. Somebody was absent and they felt very strong about it

but they're not allowed to vote on the second reading. It fails by one vote and they were not going to get a chance to hear the third reading vote. Was that the intention to do it that way?

SEN. COCCHIARELLA said she would prefer it would say in the language that would say on the correct votes and then you know that there was one and you know when it was coming and the Whip, the Majority Leader or the leadership could tell you that it was up. She didn't know why it would matter.

CHAIRMAN THOMAS stated why we can't vote absentee on the second reading's, we're not there to take in the debate. We're not here during the hearing. So, therefore, we can't vote if we aren't there. However, we can do that in committees now. We can use proxy and vote in committees if we aren't there.

SEN. COCCHIARELLA said we could have all recorded votes on second reading. We could make it apart of the amendment.

CHAIRMAN THOMAS said that was no different from what this was.

SEN. KENNAN asked if that created a problem when you have those votes for the chairman of the day or whatever will the president ask those eight or nine people who said no to stand up, Does that create a problem with this?

CHAIRMAN THOMAS said no.

SEN. KEENAN asked if that was a recorded vote or not?

SEN. HALLIGAN said everybody else was unanimous except for those people.

SEN. KENNAN said except for the four or five who stand up.

Secretary Skelton said it actually was a recorded vote if done that way because what the Journal does then was run all the positive names in positive and that was just a quick way of getting the roll call done.

CHAIRMAN THOMAS asked if it was her point that it does create a roll call vote also. After the votes been taken, it then creates a roll call.

SEN. GROSFIELD was not sure he liked this concept at all. He didn't think that he could vote for it on second reading either because you made a point that we must debate. He thought it would be a debatable factor to deal with on the second reading. He would rather not go there on second reading. He was not sure

he liked the concept anyway. The only time he could see where it might be an issue the one thing that was mentioned where it was a resolution honoring **Mike Mansfield** or maybe a resolution confirming a judge. Maybe the person that was absent was that person's next door neighbor or something. You know in those cases we always accommodate and put off the vote at least or leave the door open.

Motion: SEN. COCCHIARELLA moved TO ALLOW ABSENTEE VOTING ON ALL RECORDED VOTES.

SEN. GROSFIELD thought those kinds of situations are taken care. It seemed to him that pairing had worked. It does slow down the board once in a while, but he thought our computers are a bigger help now.

Motion: SEN. COCCHIARELLA moved THAT ORIGINAL MOTION BE AMENDED TO "BE APPLIED TO THIRD READING."

SEN. COCCHIARELLA told SEN. GROSFIELD the House in the past did use pair votes. With one hundred people it was a much more cumbersome process of pairing. She still saw it in a sense a very antiquated, meaningless kind of thing. You have to run around and find someone that votes the opposite of what you vote. What purpose does that serve when your votes were going to be recorded anyway? This eliminated that running finding somebody that votes the opposite of you. She saw no real reason for that because your votes were going in as an absentee vote.

CHAIRMAN THOMAS said the House did do it and he filled out a hundred of them because he was there when we had close results. We had them all of the time. We had all kinds of issues. They were always budget and taxes. It worked. It was easier to do this in the House now and maybe the House had more reason to do that. It was more expeditious. He thought it was just an old rule. It does go way back - the pairing idea. You were going to vote and you were taking out somebody that was there. He thought they ought to leave it as it was. He didn't think they needed to make it any easier to vote in the Senate even if it was just an aspect of decorum. That was the way the Senate worked and he thought it was okay. He didn't plan on voting to change the pair ruling.

SEN. GROSFIELD thought the senators know that we are very close to the point, not this session but maybe by the next session, where we can have a virtual legislature - a Legislature on the internet. He didn't think it would happen this time but by next time we could have that. So that people dial in from home and watch the session in action. SEN. GROSFIELD, who won't be here

next time, could say well you know today he was going to do a pool vote. He was going to vote by his pool. He was going to just plug it in. He didn't need to be there. He can phone it in absentia. He was worried a little bit about that. We're not there yet and he knew that was not what you were contemplating with your motion, but he was worried about making it easier for some senators to vote in absentia. He thought that would not serve us well. He would rather stay with the pairing. He thought it would be much harder to vote on the floor.

CHAIRMAN THOMAS called for a roll call vote.

Vote: Motion failed 5-7 with Beck, Berry, Grosfield, Hargrove, McNutt, Taylor, and Thomas voting no.

CHAIRMAN THOMAS asked if there was anything else that needed to come before the Senate Rules.

SEN. KEENAN wanted to go back to the new section 30-70 in Joint Rules. He would like to go ahead and make a motion. He was interested in looking at names of our committees and possibly changing them. He didn't know why it says "Claims" and not just "Senate Finance Committee." Looking at Agriculture, Livestock and Irrigation Committee it was a little wordy. Senate Education and Cultural Resources Committee might be something that should be looked at. He was wondering if maybe they could have some discussion on it. Children & Family Health and Human Services Committee was kind of tough to write out. **SEN.**

COCCHIARELLA can explain those to us. He was not sure why Finance and Claims had the "Claims" in it.

CHAIRMAN THOMAS said they could change it. Was there a motion or was there further discussion or questions?

SEN. COCCHIARELLA related the history on Legislative Council especially in committee meetings like Public Retirement Systems and Veteran's Affairs. We were familiar with the Veteran's Affairs Committee and we wanted to make sure that they were not eliminating their issues. We combined those two into Public Retirement Systems and Veteran's Affairs. The same with Children & Family Health and Human Services. We struggled with trying to come up with a name that encompassed those issues in the Legislative Council. Senate Education and Cultural Resources was the one we had mixed feelings about. We left it that way to look at it down the road. There were serious discussions about Agriculture, Livestock and Irrigation. If we had just left it the Senate Bag Committee, which was what we called it, the livestock people wouldn't have liked it. We had a debate about

how to name these different committees based on that. She didn't know why "Claims" was there,

Motion: SEN. KEENAN moved TO CHANGE SENATE FINANCE AND CLAIMS COMMITTEE TO SENATE FINANCE COMMITTEE.

CHAIRMAN THOMAS said they were in 30-20. That was where our committees are titled in 30-20.

SENATOR GROSFIELD wasn't sure but there's been a change in the Senate Rules and probably a change in the Joint Rules and that committee was already determined.

Mr. Petesch stated that SENATOR COCCHIARELLA made a motion in Joint Rules on the new rule 30-70 which gave me permission to reflect the new committee meetings in each body. You may change Senate committee names and have him reflect them in 30-70.

CHAIRMAN THOMAS thought that motion was broad enough to cover any action done here at this time.

SENATOR GROSFIELD asked if the motion was just Finance and Claims.

CHAIRMAN THOMAS thought they should go slow on this. Just one committee at a time. One committee a session or something.

SEN. KEENAN stated as chairman of Finance and Claims, he would jump into that one then. That's my motion statement.

CHAIRMAN THOMAS related that he was a stickler on tradition and he had no reason other than he liked the decorum of the Senate and he didn't care how long it stays antiquated. He thought SEN. KEENAN was correct in what he was trying to do, but he liked the antiquation of it. He hoped that they can leave the antiquation and whatever comes with it as well as the decorum intact. He didn't know if they are related but that's his two-cent worth. Seeing no other discussion, the motion was to revise Senate Finance and Claims to Senate Finance Committee. All in favor say aye, opposed, vote no, nay, motion carried.

Vote: Motion carried 11-1 with Thomas voting no.

Mr. Petesch informed them they needed a motion for a Senate Resolution to adopt Senate Rules.

Motion: SEN. HALLIGAN moved TO HAVE A SENATE RESOLUTION TO ADOPT SENATE RULES.

CHAIRMAN THOMAS asked all in favor of that motion say aye.

Vote: Motion **carried unanimously.**

SENATOR GROSFIELD forgot to bring this up at the Joint Rules Committee but maybe it was better that he didn't. You know this issue of parking. He was very sure he where he heard about this issue. He thought he heard it from the "Dean" of the Senate that the middle fifty parking places on that side would go to the Senate, and the other twenty-five on the inside are for the House and most of those across the street are for the House.

CHAIRMAN THOMAS thought he was right. It had come from the "Dean".

SEN. HALLIGAN said yes, that's what he mentioned.

CHAIRMAN THOMAS Introduced **Kerry Berg** who will be the aide for the majority caucus.

Motion/Vote: **SEN. HALLIGAN MOVED TO ADJOURN. Motion carried unanimously.**

ADJOURNMENT

Adjournment: 12:30 P.M.

SEN. FRED THOMAS, Chairman

FREDELLA D. HAAB, Secretary

EXHIBIT (rus00aad)